



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

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Seattle, Washington 98101-3140

MAR 14 2014

**OFFICE OF
COMPLIANCE AND ENFORCEMENT**

Reply to OCE-133

NOTICE OF VIOLATION

Christie True, Director
King County Department of Natural Resources and Parks
201 S. Jackson Street, Suite 600
Seattle, Washington 98104-3855

Re: King County, Washington
Municipal Separate Storm Sewer System
NPDES Permit Number: WAR04-4501

Dear Ms. True:

On July 17-18, 2013, representatives from the United States Environmental Protection Agency, Region 10 (EPA) and PG Environmental, LLC, an EPA contractor, conducted an inspection of the King County (County) Phase I Municipal Separate Storm Sewer System (MS4), including the County's stormwater management program (SWMP), to evaluate compliance with Washington's Phase I Municipal Stormwater Permit, Permit Number WAR04-4501 (Permit). The Permit establishes minimum requirements for an MS4 SWMP to address the water quality impacts from stormwater and allowable non-stormwater discharges. The EPA inspection included a review of documents, interviews with County program managers and staff, and field verification inspections. I would like to express my appreciation for your time and cooperation during the inspection. A copy of the inspection report is enclosed with this letter.

A review of the inspection report and available files revealed the following violations and areas of concern:

Violations

1. Source Control Program for Existing Development: Lack of Written Documentation of Training

Section S5.C.7.b.v of the Permit requires the County's SWMP staff whose primary job duties include implementing the source control program be trained to conduct those activities. The Permittee shall document and maintain records of the training and names of the staff trained.

At the time of the inspection, the inspectors reviewed the training documents and noted that some departments did not have complete records for training activities conducted in recent years (i.e., 2011, 2012, or 2013). It is important to retain records showing that training was provided for all applicable staff. This is a violation of Section S5.C.7.b.v of the Permit.

2. Controlling Runoff from New Development, Redevelopment, and Construction Sites: West Snoqualmie Valley Slope Stabilization Project

Section S5.C.5.a of the Permit states that the SWMP shall include a program to prevent and control the impacts of runoff from new development, redevelopment, and construction activities. In order to achieve this on County-owned projects, the County shall develop and implement a Stormwater Pollution Prevention Plan (SWPPP). The County's SWPPP states that straw wattles are to be "set in the slope by hand at 3-4 inches deep." The straw wattle best management practices (BMPs) around the perimeter of the Snoqualmie site were staked to the ground and not entrenched as required in the SWPPP. This is a violation of Section S5.C.5.a of the Permit.

Areas of Concern

1. Records Documentation

Recordkeeping is required in several sections of the Permit (i.e., Section S5.C.5.b.vi, Section S5.C.7.b.iv, S5.C.8.b.ix, Section S5.C.9.b.v, Section S5.C.10.b.iii and Section S9.C). For example, Section S5.C.9.b.v of the Permit states that "Records of inspections and maintenance or repair activities conducted by the Permittee shall be maintained."

The inspectors noted that each County department and division had its own unique tracking method and data management technology. While it appeared that the required records were maintained, some data management technologies in use were noted as being inefficient or insufficient. Furthermore, the concern is that it is difficult to make a determination that Permit requirements are met because different formats are used by the different departments/divisions.

2. Succession Planning

During the inspection, County staff explained that the economic downturn, reduced funding, and continued annexation has caused major staff reductions in a number of County departments, sometimes by as much as 50 percent. While senior and highly experienced inspection staff were present in several departments, such as the Department of Permitting and Environmental Review (DPER), it was unclear if sufficient written Standard Operating Procedures (SOPs) exist to provide effective training of new or future staff. Much of the expertise and SOPs were based on the best professional judgment of senior inspectors. The concern is that without proper SOPs and training, any future loss of senior personnel may make successful implementation of the stormwater program difficult.

3. Enforcement Program

Section S5.C.7.b.iv of the Permit states, "Each Permittee shall implement a progressive enforcement policy to require sites to come into compliance with stormwater requirements within a reasonable time period." During the inspection the inspectors requested documentation for the implementation of a progressive enforcement policy. The County provided a copy of the King County Code. While the inspectors found a code enforcement policy rooted in County code, County departments and divisions have developed and applied their own policies. The concern is that even if the progressive enforcement process is documented, the inspectors were not able to determine if the enforcement was being used to

ensure compliance within a reasonable period of time, and that enforcement escalation was being used to ensure compliance and used consistently across the different programs.

4. County's Process for Conducting and Documenting Construction Inspections

Section S5.C.5.b.vi of the Permit states that the Program shall, "Inspect all permitted development sites involving land disturbing activity that meet the thresholds in S5.C.5.b.i., above, during construction to verify proper installation and maintenance of required erosion and sediment controls." In addition, Section S5.C.5.vi of the Permit states that the Program shall, "Include a procedure for recordkeeping of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records." Although the inspectors noted that there is a thorough and well established process for DPER to review and approve drainage plans at development sites, construction site inspections, after the approval process, do not appear to be subject to a similarly well established process. Documentation of inspection procedures, inspection results (for all sites regardless of size), and inspection follow up appears variable (refer to Section 2.2.2 of the inspection report for further details).

5. Operation and Maintenance Program: County Facilities

Section S5.C.9.b.iii.(1) of the Permit states that the County "shall implement a program to annually inspect all permanent stormwater treatment and flow control facilities (other than catch basins) owned and operated by the Permittee, and implement appropriate maintenance action in accordance with adopted maintenance standards. Changing the inspection frequency to less than annually shall be based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a less frequent inspection schedule. Written statements shall be based on actual inspection and maintenance experience."

During the inspection, the inspectors discussed the County's process for determining the inspection schedule for each of the County-owned facilities. County staff stated that the inspection schedule for each facility was based on past inspection records and professional judgment. County staff explained that after each facility inspection, a facility that needed immediate maintenance was designated as "function critical." However, no guidance was provided to ensure consistency in how a "function critical" designation was made other than through best professional judgment. Once a facility was determined to need function critical maintenance, it was placed on the inspection cycle for the following year. It was unclear what the future maintenance schedule of the facility would be upon completion of the second-year inspection. The vague inspection schedule makes it hard to determine if the County is meeting the requirements of Section S5.C.9.b.iii.(1). It is recommended that the County develop an inspection program to ensure a regular inspection and maintenance program.

It is EPA's goal to ensure facilities comply fully with their permits, but the ultimate responsibility rests with the facility. We urge you to take the steps necessary to address these violations and concerns and to ensure that all aspects of your operation are conducted in accordance with all applicable federal, state, and local requirements.

If you have any additional questions concerning this matter, please call Robert Grandinetti, NPDES Compliance Officer, at (509) 376-3748.

Sincerely,



Edward J. Kowalski
Director

Enclosures

cc: Raman Iyer, Washington Department of Ecology
Rachel McCrea, Washington Department of Ecology
Mark Isaacson, Water & Land Resources Division Director, King County
Curt Crawford, Stormwater Services Section Manager, King County
Doug Navetski, Municipal NPDES Permit Manager, King County